THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.1814 of 2007

Dated: 02.02.2007

Between:

Y. Ramakrishna Babu.

..... PETITIONER

AND

The Government of Andhra Pradesh,
rep.by its Principal Secretary, Revenue, Hyderabad, and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S. RAO

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ORDER:

The petitioner filed a declaration under Section 6(1) of the

Urban Land (Ceiling & Regulation) Act, 1976 (the Act, for brevity) before third respondent. He was declared as surplus landholder to the extent of 11,207 sq. mtrs. Aggrieved by the same, he filed an application under Section 20 (1)(b) of the Act seeking exemption stating that in 1971 he sold away the land to M/s Mandapati Laxmi Narsu, Laxmaiah, Batavala Anjaneyulu, Challa Nagaiah and Talasila Koti Reddy under an agreement of sale and handed over possession. Apart from this, he also preferred an appeal before second respondent and the same was dismissed on 16.03.1984. He then challenged the same in W.P.No.11788 of 1984. Meanwhile, the Government treated the application filed by him as revision petition under Section 34 of the Act and issued orders in G.O.Ms.No.936 dated 21.10.1991, as a result of which the petitioner withdrew the writ petition, duly setting aside the final orders of third respondent.

He also declared the properties situated in Vijayawada and Hyderabad. He claimed that property at Vijayawada was in possession of M/s City Cooperative Building Society Limited, Vijayawada, who purchased the land. Therefore, said purchaser was required to file a declaration as per the orders of this Court in W.P.No.350 of 1984 dated 27.10.1987. In spite of the same, third respondent again passed orders on 29.05.1992 declaring the petitioner as surplus holder to the extent of 10,619 sq. mtrs. The petitioner contends that third respondent even observed that the transactions under which he sold the property in 1971 are genuine. The petitioner again approached the Government for exemption under Section 20 (1) of the Act and therefore, third respondent observed insofar as the property in Vijayawada is concerned the orders are subject to the decision of the Government. In 2006, however, notifications under Section 10 (3) of the Act were issued and notice under Section 10 (5) of the Act was issued directing delivery of possession. The petitioner, therefore, preferred an appeal before second respondent and also prayed for stay. While admitting the appeal, second respondent rejected the request for stay by proceedings dated 04.01.2007, aggrieved by which instant writ petition is filed.

The learned counsel for the petitioner does not dispute that the petitioner has already parted with the land in favour of five persons in 1971 and that notice under Section 10 (5) of the Act was issued in respect of the property which is not in possession of the petitioner. Therefore, this Court does not find any infirmity in the impugned proceedings of second respondent in refusing to stay. It is always open to those persons in occupation/possession of the property to assail any

action of the authorities if there is an attempt to dispossess them without notice to them. Insofar as the petitioner is concerned, though as the declarant or the original declarant in respect of the properties in Guntur, Hyderabad and Vijayawada, he can maintain an appeal, but he cannot insist upon stay of further proceedings. Therefore, the impugned proceedings are justified.

The writ petition, with the above observations, is accordingly dismissed. No costs.

(**V.V.S.RAO, J**)

02nd February, 2007
ghn